

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KESEAN MCKENZIE-SMITH,

Petitioner,

v.

24-CV-6570-FPG
ORDER

MARK MILLER,

Respondent.

Pro se Petitioner, Kesean McKenzie-Smith, is an inmate at the Green Haven Correctional Facility. He submitted a Petition and Amended Petition for a writ of habeas corpus under 28 U.S.C. § 2254. ECF Nos. 1, 11. The Amended Petition is now the operative pleading. As he alleges in more detail, Petitioner claims that he was convicted in New York State Supreme Court, Monroe County, in violation of his constitutional rights. *Id.* Petitioner has paid the \$5.00 filing fee

ORDER

IT IS HEREBY ORDERED that Petitioner's request to proceed *in forma pauperis* is denied; and it is further

ORDERED, in accordance with Rules 4 and 5 of the Rules Governing § 2254 Cases in the United States District Courts, that Respondent shall file and serve an **answer** responding to the allegations in the Amended Petition within **90 days of the date of this Order**. The answer shall state whether a trial or any pre-trial or post-trial evidentiary proceeding was conducted and include as exhibits thereto, full transcripts of these proceedings with any records and documents relating to them, so that the materials can be filed in the official record of this case; and it is further

ORDERED that, in addition to his answer, Respondent shall file and serve, within **90 days of the date of this Order**, a memorandum of law addressing each of the issues raised in the Amended Petition and including citations to supporting authority; and it is further

ORDERED that within **30 days of the date of this Order**, Respondent may file a motion for a more definite statement or a motion to dismiss the Amended Petition, accompanied by appropriate exhibits demonstrating that an answer to the Amended Petition is unnecessary; and it is further

ORDERED that within **30 days of the date this Order is served** upon the custodian of the records, the Clerk of Court, or any other official having custody of the records of the proceedings in New York State Supreme Court, Monroe County, leading to the conviction shall submit such records to Respondent or his attorney; and it is further

ORDERED that if Petitioner previously appealed the judgment of conviction or an adverse judgment or order in a post-conviction proceeding, Respondent must provide the Court with a copy of the briefs, the record on appeal, and any opinions of the appellate courts so that such documents can be filed in the official record of this case; and it is further

ORDERED that Petitioner shall have **30 days after service of Respondent's answer or other pleading** to file a written reply; and it is further

ORDERED that the Clerk of Court shall electronically serve a copy of the Amended Petition, together with a copy of this Order, via a Notice of Electronic Filing to Arlene Roces, Arlene.Roces@ag.ny.gov, Federal Habeas Unit; criminalappealshabeas@ag.ny.gov.

PETITIONER MUST FORWARD A COPY OF ALL FUTURE PAPERS AND CORRESPONDENCE TO THE ATTORNEY APPEARING FOR RESPONDENT.

SO ORDERED.

Dated: June 10, 2025
Rochester, New York


HON. FRANK P. GERACI, JR.
UNITED STATES DISTRICT JUDGE